

Getting Washington Back to Work

Sine Die 2003



Water Rights

"Certainty in water rights is very important for agriculture, for Washington's economy and for residential needs."

Over the past few years, the Legislature has made progress on various water-related issues affecting Washington, including the law creating a two-line process for water right applications. However, many water issues like water quantity remain unresolved.

There is a long-running debate within the water community over whether the regulation of water quantity and water quality should be linked. Environmentalists say they should be connected. But farmers, ranchers and others say they should be addressed separately. Agriculture and communities facing population growth need a dependable supply of water. That should be a realistic goal in a state that is second nationally only to Alaska in the amount of fresh water.

The state needs to place greater focus on water quantity. We need to provide certainty in water permitting and regulation. This certainty is very important for agriculture, for Washington's economy and for our residential needs.

Senate Republicans proposed a water package that provides more flexibility in the use of water for all users, while ensuring a balance with the state's in-stream flow needs. It is important to make sure water can be moved to where it's needed, when it's needed.

Special Session Water Package

Separating water quality and water quantity issues (ESSB 5028)

This measure clarifies Washington's authority to regulate water pollution. It prohibits DOE from taking water quality enforcement action against water right holders if the right is used in accordance with the law. The issue over the definition of pollution underscores the need to separate water quantity from water quality. A water right should be independent of water quality concerns.

Status: Signed into law

Watershed planning grants and implementation lead agencies (2E2SHB 1336)

This bill, which was requested by the governor, deals with the fourth and final phase of the watershed planning process - implementation. Current state watershed planning statutes don't provide any specific direction or funding for implementing a watershed plan. This measure gives watershed planning units authority to implement watershed plans. It sets out timelines, deadlines and provides money for implementing these plans. Under a state grant program for implementing the plans, a planning unit may receive up to \$100,000 for each of the first three years, and \$50,000 per year for each of two extension years. (Senate companion bill SSB 5027)

Status: Signed into law.

Concerning public water systems (2E2SHB 1338)

This measure protects municipal water rights from relinquishment through nonuse and allows them to expand up to authorized annual quantity limits as demand within a service area grows. It provides greater certainty for municipal water rights and will enable growing cities to provide enough water to meet projected demands.

Status: Signed into law.

OTHER IMPORTANT WATER BILLS

Allowing replacement and additional wells (SSB 5023)

This measure deals with the use of public ground water for municipal or domestic supply. It allows a well to be moved or an additional well to be brought online at a new location up to two miles from the old wellhead as long as certain conditions are met and public notice is provided.

Status: Passed the Senate 32-17. Died on House 2nd Reading Calendar.

Ending the "use it or lose it" policy (SSB 5025)

This measure freezes DOE's authority to declare an individual's water rights to be forfeited or relinquished if that water right isn't used. The current system gives incentive to water right holders to waste water just so they don't lose their water right. We need a law that will encourage common-sense conservation of water, not the use-it-or-lose-it approach that just wastes water. This bill does that.

Status: Passed Senate 33-16. Died in House Agriculture and Natural Resources Committee.

Exempting water for livestock (SSB 5077)

This measure exempts drinking water for livestock from the groundwater permitting process. The bill puts into statute a decision this January by the Washington State Court of Appeals (Kim v. PCHB) that allows any amount of water to be used for livestock or for a noncommercial garden of a half acre or less.

Status: Passed Senate 27-21. Died in House Agriculture and Natural Resources Committee.

Speeding up judicial reviews of DOE water rights decisions (SSB 5086)

This measure allows an individual appealing a DOE water quantity decision to appeal to the Pollution Control Hearings Board (PCHB) or to the superior court where the affected land is located. The measure will speed up judicial review of Ecology's water right decisions and streamline the appeal process.

Status:

Passed Senate 26-23. Died in House Judiciary Committee.

Flexibility in water rights (ESB 5106)

This measure allows water rights holders to be credited with the difference between their peak historic use of water and current consumption. This stops the need for water waste under the current "use it or lose it" policy. In addition, ESB 5106 allows a simple change of water use within a general agricultural category without having to go through the arduous application process.

Status: Passed Senate 30-19. Died on House 2nd Reading Calendar.